



Billing Codes: 3510-22-P; 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 0648-XC011

Multi-species Habitat Conservation Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Notice of availability of final environmental impact statement, multi-species habitat conservation plan, and implementing agreement.

SUMMARY: This document announces the availability of the Final Environmental Impact Statement (EIS) on the applications from the Fruit Growers Supply Company (FGS) for Incidental Take Permits (ITPs) and a multi-species Habitat Conservation Plan (HCP) for take of endangered and threatened species in accordance with the Endangered Species Act of 1973, as amended (ESA). The National Marine Fisheries Service and the Fish and Wildlife Service (Services) and FGS have also developed an implementing agreement (IA) which details how the Services and FGS will work together to implement the HCP. The applicant seeks the ITPs to authorize incidental take of the covered species during forest management and timber harvest in Siskiyou County, CA, where FGS owns lands, during the term of the proposed 50- year ITPs and HCP. This document is provided under National Environmental Policy Act regulations to inform the public that the Final EIS and multi-species HCP, and the Services' responses to public comments are available for review, and that we have filed the Final EIS with the U.S.

Environmental Protection Agency (EPA) for public notice. The Services will not make a decision on issuing ITPs to FGS sooner than 45 days after publication of EPA's notice.

DATES: Written comments must be received by 5 p.m. Pacific Time, August 6, 2012.

ADDRESSES: Comments may be sent by any of the following methods:

- Mail: Address comments to: Lisa Roberts, NMFS, 1655 Heindon Road, Arcata, CA, 95521.
- E-mail: [SWR.NCO.FGSHCP@noaa.gov](mailto:SWR.NCO.FGSHCP@noaa.gov). In the subject line of the e-mail, include the document identifier: Final FGS HCP.
- Facsimile: (707) 825-4840. Please note: Attention: Lisa Roberts, NMFS

FOR FURTHER INFORMATION CONTACT: For further information, or to receive a copy of the documents, please call Lisa Roberts, Fisheries Biologist, NMFS, at (707) 825-5178 or Brian Woodbridge, Wildlife Biologist, FWS, at (530) 841-3101.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the Final EIS, HCP, applications for ITPs, and IA are available for public inspection during regular business hours at the Arcata National Marine Fisheries Office (see FOR FURTHER INFORMATION CONTACT) and at the Yreka Fish and Wildlife Office (1829 S. Oregon Street, Yreka, CA 96097).

The documents are also available electronically for review on the NMFS Southwest Region website at: <http://swr.nmfs.noaa.gov/nepa.html> or the FWS Yreka office website at: [www.fws.gov/yreka](http://www.fws.gov/yreka). Copies are also available for viewing in each of the following libraries:

1. Siskiyou County Library, 719 4<sup>th</sup> St., Yreka, CA 96097.
2. Humboldt County Library, 1313 3<sup>rd</sup> St., Eureka, CA 95501.

3. Del Norte County Library, 190 Price Mall, Crescent City, CA 95531.

## Background

Section 9 of the ESA prohibits the “take” of wildlife species listed as endangered or threatened by either the FWS or NMFS (16 U.S.C. 1538). The ESA defines the term “take” as: harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct. “Harm” has been defined by FWS to include “significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering.” Consistent with FWS, NMFS has defined “harm” as an act which actually kills or injures fish or wildlife, and emphasized that such acts may include “significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering”. Pursuant to section 10(a)(1)(B) of the ESA, FWS and NMFS may issue ITPs authorizing the take of listed species if, among other things, such taking is incidental to, and not the purpose of, otherwise lawful activities.

Take of listed plant species is not prohibited under the ESA, and cannot be authorized under a section 10 permit. However, the applicant proposes to include Yreka phlox (Phlox hirsuta) in the HCP to extend the HCP’s conservation benefits to this species. The applicant would receive assurances under the “No Surprises” regulations found in 50 CFR 17.22(b)(5), 17.32(b)(5), and 222.307(g) for all proposed covered species in the ITP.

To receive an ITP under the ESA, an applicant must first prepare an HCP that specifies the following: (1) the impact of the taking; (2) steps the applicant will take to minimize and mitigate the impact; (3) funding available to implement the steps; (4) what alternative actions to

the taking the applicant considered and the reasons why these actions were not taken; and (5) any other measures NMFS or FWS may require as being necessary or appropriate for the purpose of the HCP (16 U.S.C. 1539(a)(2)(A)). To issue a permit, NMFS and FWS must find that: (1) the taking will be incidental; (2) the applicant will minimize and mitigate impacts of the take to the maximum extent practicable; (3) the applicant will ensure adequate funding for the HCP; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will meet other measures required by FWS and NMFS.

Regulations governing issuance of FWS ITPs for endangered and threatened species are at 50 CFR 17.22 and 17.32, and for NMFS-issued permits at 50 CFR 222.301 through 307.

The applicant has requested coverage from FWS for northern spotted owl (Strix occidentalis caurina) and Yreka phlox (Phlox hirsuta), and from NMFS for the Southern Oregon/Northern California Coast coho salmon (Oncorhynchus kisutch) Evolutionarily Significant Unit (ESU). The applicant has also requested coverage under the ITP for the unlisted Klamath and Trinity Rivers Chinook salmon (O. tshawytscha) ESU and the Klamath Mountains Province steelhead (O. mykiss) ESU. Should these unlisted covered species become listed under the ESA during the term of the permit, take authorization for those species would become effective upon listing as long as the HCP is being properly implemented. The Final FGS HCP describes the habitat-based conservation approach, with species-specific objectives for their long-term conservation. This includes an Aquatic Species Conservation Program for salmonids and Terrestrial Species Conservation Program for the northern spotted owl and Yreka phlox.

FGS activities proposed for coverage under the ITPs include mechanized timber harvest; forest product transportation; road and landing construction, use, maintenance, and abandonment; site preparation; tree planting; certain types of vegetation management;

silvicultural thinning and other silvicultural activities; fire suppression; rock quarry and borrow pit operations; aquatic habitat restoration; minor forest management activities such as forest product collecting; and monitoring activities and scientific work in the HCP Plan Area.

The duration of the ITPs and HCP is 50 years, though many aspects of the plan's conservation strategy are intended to benefit the covered species long after the expiration of the permit. The goals of this HCP are to: (1) protect and improve habitats required by species covered by the HCP and (2) establish appropriate guidelines for continued timber harvest and other forest management activities.

NMFS and FWS formally initiated an environmental review of the project through publication of a Notice of Intent to prepare an Environmental Impact Statement in the Federal Register on February 22, 2008 (73 FR 9776). That document also announced a 30-day public scoping period during which interested parties were invited to provide written comments expressing their issues or concerns relating to the proposal and attend the public scoping meetings held in Yreka and Happy Camp, California.

On November 13, 2009, the Services published a Notice of Availability of the Draft Fruit Growers Supply Company Multi-Species Habitat Conservation Plan and Draft Environmental Impact Statement, Siskiyou County, California in the Federal Register (74 FR 58602). The public review period was scheduled for 90 days from November 13, 2009, to February 11, 2010. A total of 21 oral questions and comments were received from two speakers at a public meeting held in Yreka on December 2, 2009. Twenty-four comment letters were received, as well as two e-mails sent by 532 individuals. The oral comments, letters, and e-mails contained a total of 275 separate comments. A response to each of these comments is included in the Final EIS.

The Final EIS is intended to accomplish the following: Inform the public of the proposed action and alternatives; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

## Alternatives

The Final EIS analyzes the FGS proposal and three alternatives. Under the proposed action, the Services would issue the ITPs and FGS would implement its proposed HCP on approximately 152,178 acres of the FGS commercial timberlands. The ownership consists of three management units: Klamath River (65,339 acres), Scott Valley (39,153 acres), and Grass Lake (47,686 acres). Under the No Action Alternative, the ITPs would not be issued, there would be no HCP, and FGS would remain subject to the prohibition on unauthorized taking of listed species. Under Alternative A, the ITPs would be issued by both agencies, and northern spotted owl conservation areas would be based on the Northwest Forest Plan (NWFP) system of late-successional reserves (LSRs), and the Aquatic Species Conservation Program would be based on concepts outlined in the NWFP for the protection of aquatic habitats. Under Alternative B, FWS would issue an ITP for northern spotted owl, with spotted owl conservation based on management of foraging and dispersal habitat across the Plan Area. Under Alternative B, no ITP would be issued by NMFS and there would be no Aquatic Species Conservation Program implemented.

## National Environmental Policy Act

The proposed permit issuance triggers the need for compliance with the National Environmental Policy Act (NEPA) and accordingly the Services have prepared a joint NEPA document. The Services are Co-Leads and are responsible for compliance under NEPA. As

NEPA Co-Lead agencies, the Services are providing notice of the availability of the Final EIS and are making available for public review the responses to comments on the Draft EIS.

#### Public Review

The Services invite the public to review the Final EIS, HCP and IA during a 45-day wait period from June 22, 2012 to August 6, 2012. . Any comments received, including names and addresses, will become part of the administrative record and may be made available to the public. You may submit your comments to the address listed in the ADDRESSES section of this document. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you may ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Services will evaluate the applications, associated documents, and comments submitted in preparation of the two Records of Decisions that the Services must prepare in response to the ITP applications. Permit decisions will be made no sooner than 45 days after the publication of EPA's notice of the Final EIS and completion of the Records of Decisions.

Dated: June 18, 2012.

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Angela Somma  
Chief, Endangered Species Division,  
  
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Dated: June 18, 2012.

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